

§ 78D-23. Power of court to grant relief.

- (a) (1) Upon a proper showing by the Administrator that a person has violated, or is about to violate, any provision of this Chapter or any rule or order of the Administrator, any court of competent jurisdiction may grant appropriate legal or equitable remedies.
- (2) Upon showing of violation of this Chapter or a rule or order of the Administrator, the court, in addition to traditional legal and equitable remedies, including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions, and writs of prohibition or mandamus, may grant the following special remedies:
 - a. Imposition of a civil penalty in an amount which may not exceed twenty-five thousand dollars (\$25,000) for any single violation or five hundred thousand dollars (\$500,000) for multiple violations in a single proceeding or a series of related proceedings;
 - b. Disgorgement;
 - c. Declaratory judgment;
 - d. Restitution to investors wishing restitution; and
 - e. Appointment of a receiver or conservator for the defendant or the defendant's assets.
- (3) Appropriate remedies when the defendant is shown only about to violate this Chapter or a rule or order of the Administrator shall be limited to:
 - a. A temporary restraining order;
 - b. A temporary or permanent injunction;
 - c. A writ of prohibition or mandamus; or
 - d. An order appointing a receiver or conservator for the defendant or the defendant's assets.

The clear proceeds of civil penalties imposed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) The court shall not require the Administrator to post a bond in any official action under this Chapter.

- (c) (1) Upon a proper showing by the administrator or securities or commodity agency of another state that a person (other than a government or governmental agency or instrumentality) has violated, or is about to violate, any provision of the commodity code of that state or any rule or order of the administrator or securities or commodity agency of that state, the Superior Court of Wake County may grant appropriate legal and equitable remedies.
- (2) Upon showing of a violation of the securities or commodity act of the foreign state or a rule or order of the administrator or securities or commodity agency of the foreign state, the court, in addition to traditional legal or equitable remedies including temporary restraining orders, permanent or temporary prohibitory or mandatory injunctions and writs of prohibition or mandamus, may grant the following special remedies:
 - a. Disgorgement; and
 - b. Appointment of a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this State.
- (3) Appropriate remedies when the defendant is shown only about to violate the securities or commodity act of the foreign state or a rule or order of the

administrator or securities or commodity agency of the foreign state shall be limited to:

- a. A temporary restraining order;
- b. A temporary or permanent injunction;
- c. A writ of prohibition or mandamus; or
- d. An order appointing a receiver, conservator, or ancillary receiver or conservator for the defendant or the defendant's assets located in this State. (1989, c. 634, s. 1; 1998-215, s. 124.)